

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
LAMAAR PLEASANT,	:	16-CV-9842 (LAP)
	:	
Plaintiff,	:	
	:	
	:	<u>ORDER ADOPTING REPORT</u>
	:	<u>AND RECOMMENDATION</u>
	:	
v.	:	
	:	
MICHAEL CAPRA,	:	
	:	
Defendant.	:	
-----X	:	

Loretta A. Preska, Senior United States District Judge:

Petitioner Lamaar Pleasant, proceeding pro se, filed a petition to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2254 on December 19, 2016. (Mot., Dec. 19, 2016, ECF No. 2). Before the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge Stewart Aaron, issued on August 1, 2018. (R&R, Aug. 1, 2018, ECF No. 31). Copies of the R&R were mailed to Petitioner. (R&R at 16).

The R&R advised the parties that specific written objections were due within thirty days after being served with the R&R. (R&R at 17). No objections to the R&R have been filed to date by any party and the time to do so has expired.

For the purposes of this order, the Court assumes familiarity with the underlying facts and analysis as set

forth in Magistrate Judge Aaron's R&R. With regard to an R&R that is not objected to, or the unobjected-to portion of an R&R, a district court reviews the R&R for clear error. See DiPilato v. 7-Eleven, Inc., 662 F. Supp. 2d 333, 339 (S.D.N.Y. 2009). Because Petitioner has not submitted objections to the R&R, the Court applies the clear error standard.

The Court has carefully reviewed the thorough and well-reasoned R&R and finds that there is no clear error of law. Accordingly, the Court adopts the R&R in its entirety.

Conclusion

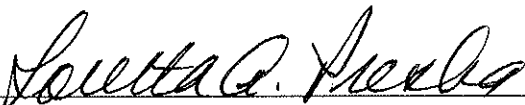
Defendant's motion to dismiss the petition is granted. (ECF No. 24). The petition for a writ of habeas corpus is denied, and the Clerk of the Court is directed to close the case.

Because Petitioner has not made a substantial showing of the denial of a federal right, the Court declines to issue a certificate of appealability. 28 U.S.C. § 2253. Furthermore, Petitioner has waived his right to appeal because he has not filed any objections to the R&R. (R&R at 17).

The Clerk's Office is directed to mail a copy of this Order to Petitioner at his last known address: Lamaar Pleasant, DIN 05-A-1730, Sing Sing Correctional Facility, 354 Hunter Street, Ossining, New York 10562, and note service on the docket.

SO ORDERED.

Dated: New York, New York
September 6, 2018



LORETTA A. PRESKA
Senior United States District Judge